

**DECISION**

**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D.C. 20548

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**FILE:** B-213041.2**DATE:** October 7, 1983**MATTER OF:** Kleen-Rite Corporation**DIGEST:**

Protest concerning allegedly arbitrary and punitive solicitation terms which were apparent prior to bid opening is dismissed as untimely where the protest was filed after bid opening.

Kleen-Rite Corporation protests the terms of invitation for bids (IFB) No. DABT31-83-B-0068 issued by the Department of the Army, Fort Leonard Wood, Missouri. The protester contends that certain requirements contained in an amendment to the IFB are arbitrary and punitive.

We dismiss the protest as untimely.

Kleen-Rite's allegations pertain to alleged solicitation deficiencies which were apparent prior to bid opening and therefore should have been protested before that time. 4 C.F.R. § 21.1(b)(1) (1983). The protester states that bid opening was scheduled for September 19, 1983 at 8:30 a.m. Because we did not receive Kleen-Rite's protest, sent by mailgram, until 12:51 p.m. on the bid opening date, it is untimely and will not be considered on the merits.

The protest is dismissed.

*Harry R. Van Cleve*  
Harry R. Van Cleve  
Acting General Counsel

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